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Filing date: **11/14/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058000
Party	Defendant Ahold Licensing Sarl
Correspondence Address	AHOLD LICENSING SARL 2 RUE JEAN PETITOT GENEVA, 1204 SWITZERLAND
Submission	Answer and Counterclaim
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Signature	/Brian P. Gregg/
Date	11/14/2013
Attachments	A3646101.PDF(14724 bytes)

Registration Subject to the filing

Registration No	1704384	Registration date	07/28/1992
Registrant	Nash-Finch Company 7600 France Avenue South Minneapolis, MN 55440 GERMANY		
Grounds for filing	The registered mark has been abandoned.		

Goods/Services Subject to the filing

Class 042. First Use: 1992/02/23 First Use In Commerce: 1992/02/23
All goods and services in the class are requested, namely: retail grocery store services

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of:

Trademark Registration No.: 4,283,988

Trademark: OUR FAMILY FOUNDATION and Design

NASH FINCH COMPANY,
Petitioner

v.

AHOLD LICENSING, SÀRL,
Registrant

Cancellation No. 92058000

FILED ELECTRONICALLY

Attn: BOX TTAB, NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

ANSWER TO PETITION FOR CANCELLATION AND COUNTERCLAIMS

1. It is admitted that the records of the United States Patent and Trademark Office ("USPTO") reflect the information alleged in Paragraph 1 of the Petition for Cancellation.

2. Admitted in part and denied in part. Ahold Licensing, Sàrl ("Ahold") denies that Registration No. 369,014 covers "canned cocoanut" or "apple butter" and denies that the mark OUR FAMILY and Design (Ser. No. 85/905,473) is a U.S. Trademark Registration as averred by Nash Finch Company ("Nash Finch"). By way of further answer, Application Ser. No. 85/905,473, an intent-to-use-based application filed on April 16, 2013, lacks priority over Ahold's registered mark and may not be relied upon to support Nash Finch's Petition

for Cancellation. As to the remainder of Paragraph 2 of the Petition for Cancellation, it is admitted that the records of the USPTO reflect the information alleged in Paragraph 2 of the Petition for Cancellation.

3. Denied. Ahold is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 3 of the Petition for Cancellation, and the same are therefore denied.

4. Denied. Ahold is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 4 of the Petition for Cancellation, and the same are therefore denied.

5. Denied. Ahold is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 5 of the Petition for Cancellation, and the same are therefore denied.

6. Denied. Ahold is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 6 of the Petition for Cancellation, and the same are therefore denied.

7. Denied.

8. Denied.

9. Denied. Ahold is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 9 of the Petition for Cancellation, and the same are therefore denied.

10. Denied. Ahold is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 10 of the Petition for Cancellation, and the same are therefore denied.

11. Denied.

12. Denied.

13. Denied.
14. Denied.
15. Denied.
16. Denied.
17. Denied.
18. Denied.
19. Denied.
20. Denied.

WHEREFORE, Registrant Ahold Licensing, Sàrl demands that the Petition for Cancellation of Petitioner Nash Finch Company be dismissed with prejudice.

AFFIRMATIVE DEFENSES

First Defense

1. Nash Finch's Petition for Cancellation fails to state a claim upon which relief can be granted.

Second Defense

2. There is no likelihood of confusion between the marks used by Ahold and Nash Finch.

Third Defense

3. Nash Finch's petition for cancellation of Ahold's registration is barred by the equitable doctrine of laches.

COUNTERCLAIM PETITION TO CANCEL REG. NO. 1,704,384

1. Nash Finch relies, in part, on its registration for the mark OUR FAMILY FOODS (Reg. No. 1,704,384) as the basis for its Petition for Cancellation of Ahold's registration of OUR FAMILY FOUNDATION and Design.

2. The services claimed in Nash Finch's '384 registration consist of "retail grocery store services" in Class 42 and the mark was registered by Nash Finch on July 28, 1992.

3. Upon information and belief, Nash Finch does not operate retail grocery stores through which it offers retail grocery store services and does not offer retail grocery store services of any kind under the OUR FAMILY FOODS mark.

4. Upon information and belief, Nash Finch has abandoned use of the OUR FAMILY FOODS mark on retail grocery store services and, thus, has abandoned the '384 registration, by discontinuing its use of the OUR FAMILY FOODS mark in connection with retail grocery store services with no intent to resume use of the mark in connection with those services in the future.

5. Ahold will be damaged by continuation of the '384 registration because it has been relied upon in Nash Finch's Petition for Cancellation of Ahold's OUR FAMILY FOUNDATION and Design registration.

WHEREFORE, Nash Finch's OUR FAMILY FOODS mark, Registration No. 1,704,384, is damaging to Ahold and it, accordingly, requests that Ahold's counterclaim be granted and that Nash Finch's '384 registration be cancelled.

McNEES WALLACE & NURICK LLC

By /s/ Brian P. Gregg
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Attorneys for Registrant
Ahold Licensing, Sàrl

Date: November 14, 2013

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a true and correct copy of the **Answer to Petition for Cancellation and Counterclaims** was electronically mailed to j.clifford@merchantgould.com and a courtesy hard copy was mailed via First Class Mail to:

John A. Clifford, Esquire
Merchant & Gould
3200 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2215

/s/ Brian P. Gregg
Brian P. Gregg
Of Counsel for Registrant
Ahold Licensing, Sàrl

Dated: November 14, 2013